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OFFICE OF PETITIONS

In re Application of :
Daniel Jay Thomsen, Richard :
O'Brien, Jessica Bogle, and :
Charles Payne :
Application No. 09/483,164 : DECISION ON PETITION
Filed: January 14, 2000 : UNDER 37 C.F.R. §1.182
Attorney Docket No. 105.174US1 :
Title: LOCALLY ADAPTABLE :
CENTRAL SECURITY MANAGEMENT IN :
A HETEROGENEOUS NETWORK :
ENVIRONMENT :

This is a decision on the petition under 37 C.F.R. §1.47(a)¹ filed May 18, 2006, requesting that a declaration of facts under 37 C.F.R. §1.131 be accepted without the signature of one of the three affiants.² This submission is properly treated as a petition under 37 C.F.R. §1.182.

On November 15, 2005, the Office issued a final rejection. Petitioner wishes to submit an affidavit/declaration of facts to swear behind the rejection and establish prior invention. However, the assignee, Secure Computing Corporation, has determined that joint inventor Bogle (who signed the declaration pursuant to 37 C.F.R. §1.63, submitted on May 8, 2000) is unwilling to execute the §1.131 declaration. Therefore, the granting of a petition under 37 C.F.R. §1.182 is required before the affidavit is accepted, since less than all of the named affiants will be signing the document.

¹ 37 C.F.R. §1.47(a) does not apply to the present situation.

² The four affiants are the three joint inventors, and it is alleged that Ms. Bogle has refused to sign the §1.131 declaration.

In order for this petition to be granted, Petitioner will need to have included the following three requirements:


- (1) the petition fee as set forth in 37 C.F.R. §1.17(f);
- (2) a statement of the last known address of the non-signing inventor, and;
- (3) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application;

Petitioner has met each of these three requirements. Regarding the first requirement, Petitioner has submitted a portion of the petition fee. The remaining \$270 has been charged to his Deposit Account, as authorized in the petition.

As such, the present petition is **GRANTED**. The declaration of facts under 37 C.F.R. §1.131 will be entered without the signature of Ms. Bogle.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the declaration of facts under 37 C.F.R. §1.131 which was received with the present petition can be processed.

It is noted in passing that the declaration which was submitted on May 8, 2000 cannot be accepted, as it fails to comply with 37 C.F.R. §1.63. The declaration contains non-initialed and non-dated changes by inventor Bogle³. Petitioner will need to submit either a declaration which has been properly executed by each of the joint inventors, or a declaration in compliance with MPEP §409.03(a) in conjunction with a petition under 37 C.F.R. §1.47(a).


Paul Shanowski
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³ See 37 C.F.R. §1.52(c)(1) and MPEP 605.04(a).